

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NATHANIEL MCFARLAND, in his capacity as
supervised and ancillary administrator of the ESTATE
OF DANIEL PRUDE,

Plaintiff,

v.

THE CITY OF ROCHESTER, MARK VAUGHN,
TROY TALADAY, FRANCISCO SANTIAGO,
MICHAEL MAGRI, ANDREW SPECKSGOOR,
JOSIAH HARRIS, and other as-yet-unidentified
Rochester police officers,

Defendants.

**PLAINTIFF'S AFFIDAVIT
IN SUPPORT OF MOTION
TO APPROVE
SETTLEMENT**

No. 6:20-cv-006675-FPG

STATE OF ILLINOIS)
 ss:)
COUNTY OF DUPAGE)

NATHANIEL MCFARLAND, as supervised and ancillary administrator of the Estate of
Daniel Prude, deceased, being duly sworn, deposes and states:

1. I am the surviving son of Daniel Prude, decedent, and reside in Villa Park, Illinois.
I make this affidavit in support of plaintiff's motion for an order approving the settlement of this
matter, including damages, attorneys' fees and disbursements, and submit it in conjunction with
the affidavit of one of my attorneys, Matthew J. Piers, Esq.

2. On March 30, 2020, Daniel Prude died after having been taken into custody by
Defendant Rochester Police Officers on March 23, 2020. He died leaving no known will (he was
intestate) and resided (was domiciled) in Cook County, Illinois. Ex. A, the Death Certificate of
Daniel Prude.

3. Daniel Prude was 41 years of age at the time of his death. He left the following children, who are the sole distributees: Nathaniel McFarland (son), Junera Prude (daughter), Tashyra Prude (daughter), Terrell Prude (son), and Sharell Prude (daughter).

4. On November 12, 2020, the Cook County Probate Court in Illinois appointed me Supervised Administrator of Daniel Prude's Estate. Ex. B. On December 3, 2020, the Monroe County Surrogate's Court appointed me Ancillary Administrator of the Estate of Daniel Prude and revoked the Letters of Administration with Limitations previously issued to Tameshay Prude, Daniel Prude's sister. Ex. C. On January 5, 2021, this Court substituted me for Tameshay Prude as Plaintiff in the above-referenced matter. ECF No. 19.

5. I am and have been represented in this action by the law firms of Hughes Socol Piers Resnick & Dym, Ltd.; Adam David Ingber, P.C.; and Faraci Lange, LLP ("Plaintiff's Counsel").

6. As set forth in the affidavit of one of my attorneys, Matthew J. Piers, this is an action for the wrongful death of my father, seeking monetary damages for his pain, suffering, and terror prior to his death, and for the loss of his support and guidance to his children (the "Lawsuit"). As alleged, in the early morning hours of March 23, 2020, Daniel Prude was suffering from an acute mental health crisis. His brother, Joe Prude, called 911 out of concern for Daniel Prude's safety after he abruptly ran out of his brother's house without shoes and without a coat in freezing cold temperatures. The defendant Rochester Police Officers who located Daniel Prude were responding to that 911 call. When the officers located Daniel Prude, he was completely naked in the middle of the street and clearly both disoriented and unarmed. The officers ordered him to lay down on the freezing cold pavement, cuffed him behind his back, slipped a spit hood over his head from behind, while he remained naked on the freezing pavement. Then three of the defendant

Rochester Police Officers forced Daniel Prude to the ground and pinned his head and chest forcefully down onto the street for several minutes, thereby suffocating him as he struggled to breath. Daniel Prude lost and never regained consciousness. He was pronounced dead seven days later, on March 30, 2020.

7. This Lawsuit asserts claims under 42 U.S.C. § 1983 for excessive force, failure to intervene, and deliberate indifference to Daniel Prude's serious medical needs; claims under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act; and state law claims for intentional infliction of emotional distress/outrageous conduct causing emotional distress, common law battery, common law negligence, gross negligence, and wrongful death.

8. The Lawsuit seeks damages for loss of life, conscious pain and suffering, wrongful death, and punitive damages. The Lawsuit also seeks recovery of Plaintiff's attorneys' fees and costs.

9. Defendants deny all liability.

10. I have carefully reviewed the affidavit of my attorney, Matthew J. Piers, and I confirm the accuracy of the terms of the retainer agreement as set forth in the affidavit. Under the terms of that retainer agreement, Plaintiff's Counsel are entitled to attorneys' fees in the amount of 33% of the recovery, and in addition, are entitled to be reimbursed for disbursements incurred in advancing the claims in the above-referenced action.

11. The Parties have reached a settlement in principle, and the terms are as follows:

- The Lawsuit is settled for a payment by Defendant City of Rochester to the Plaintiff in the total amount of twelve million dollars (\$12,000,000) (the "Settlement Amount").
- The Lawsuit will be dismissed with prejudice, waiver of any right to appeal, and a general release of the Defendants (and their agents, successors and employees) by the Plaintiff Administrator.

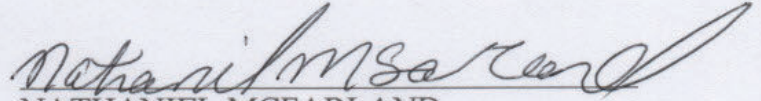
- There will be no admission of liability.
- Fifty percent (50%) of the Settlement Amount (six million dollars (\$6,000,000)) is to be paid as compensation for damages for conscious pain and suffering (“Survival Claims”), and the remaining fifty percent (50%) of the Settlement Amount (six million dollars (\$6,000,000)) is to be paid as compensation for damages for pecuniary injuries to five children, the heirs, resulting from the decedent’s death (“Wrongful Death Claims”). No portion of the Settlement Amount is to be paid for punitive damages.
- Thirty-three percent of the total Settlement Amount (33 percent of the Survival Claims damages (\$1,980,000) and 33 percent of the Wrongful Death Claims damages (\$1,980,000)) will be paid as attorneys’ fees to Plaintiff’s Counsel, for a total of three million nine-hundred and sixty thousand dollars (\$3,960,000) in attorneys’ fees.
- One-hundred and sixteen thousand eight-hundred and eight dollars and 92 cents ((\$116,808.92) of the Settlement Amount (\$58,404.46 of the Survival Claims damages and \$58,404.46 of the Wrongful Death Claims damages) are to be paid to Plaintiff’s Counsel for disbursements, to reimburse Plaintiff’s Counsel for costs incurred in advancing the claims in the above-referenced action.

12. My attorneys have reviewed with me the terms of the settlement agreement, and I believe that the settlement terms are fair and reasonable and in the best interest of the Estate and distributees.

13. The Cook County Probate Court in Illinois authorized me, as Supervised Administrator of the Estate of Daniel Prude, to enter into a settlement, including attorneys’ fees and disbursements, without further approval of the Probate Court, subject to this Court’s approval of the settlement. A copy of that Order is attached as Exhibit D.

WHEREFORE, your affiant prays the Court to enter the Proposed Order Approving Settlement attached hereto as Exhibit E.

Dated: October 5, 2022


NATHANIEL MCFARLAND

Sworn to before me this 5
day of October 2022



Notary Public



EXHIBIT

A

DOM-1961 (8/2011)

| NEW YORK STATE DEPARTMENT OF HEALTH | | | | | | | | | | 131-2020-00036340 | | | | |
|---|--|--|--|--|--|--|--|--|---|-------------------|---|--|---|--|
| CERTIFICATE OF DEATH | | | | | | | | | | STATE FILE NUMBER | | | | |
| RECORDED DISTRICT 2700 | | | REGISTER NUMBER 2598 | | | 1 NAME: FIRST MIDDLE LAST Daniel T. Prude | | | 2 SEX: MALE <input checked="" type="checkbox"/> FEMALE <input type="checkbox"/> | | 3A. DATE OF DEATH: MONTH DAY YEAR 03 30 2020 | | 3B. HOUR: 08:22 PM | |
| 4A. PLACE OF DEATH (Check one) HOSPITAL OUTPATIENT <input type="checkbox"/> HOSPITAL INPATIENT <input checked="" type="checkbox"/> NURSING HOME <input type="checkbox"/> PRIVATE RESIDENCE <input type="checkbox"/> HOSPICE FACILITY <input type="checkbox"/> OTHER (Specify): <input type="checkbox"/> | | | 4B. IF FACILITY, DATE ADMITTED: MONTH DAY YEAR 03 23 2020 | | | 4C. NAME OF FACILITY (If not facility, give address) Strong Memorial Hospital | | | 4D. LOCALITY: (Check one and specify) CITY VILLAGE TOWN Rochester | | | 4E. COUNTY OF DEATH: Monroe | | |
| 4F. MEDICAL RECORD NO. | | | 4G. WAS DECEDENT TRANSFERRED FROM ANOTHER INSTITUTION? (If yes, Specify institution name, city or town, county and state) NO <input type="checkbox"/> YES <input type="checkbox"/> | | | 5. DATE OF BIRTH: MONTH DAY YEAR 09 20 1978 | | | 6A. AGE IN YEARS: 41 yrs | | 6B. IF UNDER 1 YEAR ENTER: months days | | 6C. IF UNDER 1 DAY ENTER: hours minutes | |
| 8. SERVED IN U.S. ARMED FORCES? (Specify years) NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> | | | 9. DECEDENT OF HISPANIC ORIGIN? Check the boxes that best describe whether the decedent is Spanish/Mexican/Latino: A <input checked="" type="checkbox"/> No, not Spanish/Mexican/Latino B <input type="checkbox"/> Yes, Mexican, Mexican American, Chicano C <input type="checkbox"/> Yes, Puerto Rican D <input type="checkbox"/> Yes, Cuban E <input type="checkbox"/> Yes, Other Spanish/Mexican/Latino (Specify): | | | 10. DECEDENT'S RACE: Check one or more races to indicate what the decedent considered himself or herself to be: A <input type="checkbox"/> White/Caucasian B <input checked="" type="checkbox"/> Black or African American C <input type="checkbox"/> Asian Indian D <input type="checkbox"/> Chinese E <input type="checkbox"/> Filipino F <input type="checkbox"/> Japanese G <input type="checkbox"/> Korean H <input type="checkbox"/> Vietnamese I <input type="checkbox"/> Native Hawaiian K <input type="checkbox"/> Guamanian or Chamorro M <input type="checkbox"/> Samoan N <input type="checkbox"/> American Indian or Alaska Native (Specify): P <input type="checkbox"/> Other Asian (Specify): S <input type="checkbox"/> Other (Specify): | | | 7A. CITY AND STATE OF BIRTH: (If not USA, Country and Region/Province) Chicago, Illinois | | | 7B. IF AGE UNDER 1 YEAR, NAME OF HOSPITAL OF BIRTH: | | |
| 11. DECEDENT'S EDUCATION: Check the box that best describes the highest degree or level of school completed at the time of death 1 <input type="checkbox"/> < 8th grade 2 <input type="checkbox"/> 9th-12th grade, no diploma 3 <input checked="" type="checkbox"/> High school graduate or GED 4 <input type="checkbox"/> Some college credit, but no degree 5 <input type="checkbox"/> Associate's degree 6 <input type="checkbox"/> Bachelor's degree 7 <input type="checkbox"/> Master's degree 8 <input type="checkbox"/> Doctorate/Professional degree | | | 12. SOCIAL SECURITY NUMBER: 355-68-1395 | | | 13. MARITAL STATUS: NEVER MARRIED <input checked="" type="checkbox"/> 1 MARRIED <input type="checkbox"/> 2 WIDOWED <input type="checkbox"/> 3 DIVORCED <input type="checkbox"/> 4 SEPARATED <input type="checkbox"/> 5 | | | 14. SURVIVING SPOUSE: Enter birth name of spouse if married or separated. | | | | | |
| 15A. USUAL OCCUPATION: (Do not enter retired) Unknown | | | 15B. KIND OF BUSINESS OR INDUSTRY Unknown | | | 15C. NAME AND LOCATION | | | 16A. RESIDENCE: (State or Country if not USA) IL | | | 16B. County or Region/Province if not USA: Cook | | |
| 16C. LOCALITY: (Check one and specify) CITY VILLAGE TOWN Chicago | | | 16D. STREET AND NUMBER OF RESIDENCE 8102 Loomis Boulevard #1 | | | 16E. ZIP CODE: 60620 | | | 16F. WITHIN CITY OR VILLAGE LIMITS? YES <input type="checkbox"/> NO <input type="checkbox"/> IF NO, SPECIFY TOWN: | | | | | |
| 17. BIRTH NAME OF FATHER / PARENT: FIRST MI LAST Joe L. Cole | | | 18. BIRTH NAME OF MOTHER / PARENT: FIRST MI LAST Dorothy T. Prude | | | 19A. NAME OF INFORMANT Tameshay Prude | | | 19B. MAILING ADDRESS: (include zip code) 8102 Loomis Boulevard #1, Chicago, IL 60620 | | | | | |
| 20A. 1 <input type="checkbox"/> BURIAL 2 <input type="checkbox"/> CREMATION 3 <input type="checkbox"/> REMOVAL MONTH DAY YEAR 04 20 2020 | | | 20B. PLACE OF BURIAL, CREMATION, REMOVAL OR OTHER DISPOSITION: Rochester Crematory | | | 20C. LOCATION: (City or town and state) Perinton Town, New York | | | 21A. NAME AND ADDRESS OF FUNERAL HOME: Paul L. Murphy & Sons Funeral Home 127 E Miller St, Newark, NY 14513 | | | 21B. REGISTRATION NUMBER: 01334 | | |
| 22A. NAME OF FUNERAL DIRECTOR: Paul L. Murphy | | | 22B. SIGNATURE OF FUNERAL DIRECTOR: Paul L. Murphy Electronically Signed | | | 22C. REGISTRATION NUMBER: 12583 | | | 23A. SIGNATURE OF REGISTRAR: | | | 23B. DATE FILED: MONTH DAY YEAR | | |
| 24A. BURIAL OR REMOVAL PERMIT ISSUED BY: | | | 24B. DATE ISSUED: MONTH DAY YEAR | | | 25A. CERTIFICATION: To the best of my knowledge, death occurred at the time, date and place and due to the causes stated. Certifier's Name: Nadia Granger, ME License No.: 250644 Signature: Nadia Granger, ME Electronically Signed Month Day Year 03 31 2020 | | | 25B. If coroner is not a physician, enter Coroner's Physician's name & title: License No.: Signature: Month Day Year | | | 25C. If certifier is not attending physician, enter Attending Physician's name & title: License No.: Signature: Address: Month Day Year | | |
| 26A. Attending physician attended deceased: FROM Month Day Year TO Month Day Year | | | 26B. Deceased last seen alive by attending physician: Month Day Year | | | 26C. Pronounced Dead On Month Day Year AT Time 03 30 2020 08:22 PM | | | 27. MANNER OF DEATH: NATURAL CAUSE <input type="checkbox"/> 1 ACCIDENT <input type="checkbox"/> 2 HOMICIDE <input checked="" type="checkbox"/> 3 SUICIDE <input type="checkbox"/> 4 UNDETERMINED CIRCUMSTANCES <input type="checkbox"/> 5 PENDING INVESTIGATION <input type="checkbox"/> 6 28. WAS CASE REFERRED TO CORONER OR MEDICAL EXAMINER? NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> 29A. AUTOPSY? NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> 29B. IF YES, WERE FINDINGS USED TO DETERMINE CAUSE OF DEATH? NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> 1 | | | | | |
| CONFIDENTIAL SEE INSTRUCTION SHEET FOR COMPLETING CAUSE OF DEATH CONFIDENTIAL | | | | | | | | | | | | | | |
| 30. DEATH WAS CAUSED BY: (ENTER ONLY ONE CAUSE PER LINE FOR (A), (B), AND (C)) | | | | | | | | | | | | | | |
| PART I. IMMEDIATE CAUSE: (A) Complications of asphyxia in the setting of physical restraint DUE TO OR AS A CONSEQUENCE OF: Days (B) Excited delirium DUE TO OR AS A CONSEQUENCE OF: Minutes to hours (C) Acute phencyclidine intoxication DUE TO OR AS A CONSEQUENCE OF: Minutes to hours | | | | | | | | | | | | | | |
| PART II. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN PART I (A): <<<>>>> | | | | | | | | | | | | | | |
| 31A. IF INJURY, DATE: MONTH DAY YEAR 03 23 2020 | | | 31B. INJURY LOCALITY: (City or town and county and state) Rochester, Monroe, NY | | | 31C. DESCRIBE HOW INJURY OCCURRED: Physical restraint and recent drug use | | | 31D. PLACE OF INJURY: Roadway/Highway | | | 31E. INJURY AT WORK? NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> 1 | | |
| 31F. IF TRANSPORTATION INJURY, SPECIFY: 1 <input type="checkbox"/> Driver/Operator 2 <input type="checkbox"/> Passenger 3 <input type="checkbox"/> Pedestrian 4 <input type="checkbox"/> OTHER (Specify): | | | 32. WAS DECEDENT HOSPITALIZED IN LAST 2 MONTHS? NO <input type="checkbox"/> YES <input type="checkbox"/> 1 | | | 33A. IF FEMALE: 0 <input type="checkbox"/> Not pregnant within last year 1 <input type="checkbox"/> Pregnant at time of death 2 <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death 4 <input type="checkbox"/> Unknown if pregnant within last year | | | 33B. DATE OF DELIVERY: MONTH DAY YEAR | | | | | |

Exhibit
Gran 0016
10/25/2021
Nadia Granger

Pronouncement-Manner of Death- amended on Apr-22-2020; formerly Pending Investigation; Injury-Date/Time of Injury- amended on Apr-22-2020; formerly blank; Injury-Place of Injury- amended on Apr-22-2020; formerly blank; Injury-Address Street Name- amended on Apr-22-2020; formerly blank; Injury-Address Street Designator- amended on Apr-22-2020; formerly blank; Injury-Address Zip Code- amended on Apr-22-2020; formerly blank; Injury-Address City- amended on Apr-22-2020; formerly blank; Injury-Address State- amended on Apr-22-2020; formerly blank; Injury-Describe How Injury Occurred- amended on Apr-22-2020; formerly blank; Cause of Death-Line 1- amended on Apr-22-2020; formerly blank; Cause of Death-Line 2- amended on Apr-22-2020; formerly blank; Cause of Death-Line 3- amended on Apr-22-2020; formerly blank; Cause of Death-Line 4- amended on Apr-22-2020; formerly blank; Cause of Death-Line 5- amended on Apr-22-2020; formerly blank; Cause of Death-Line 6- amended on Apr-22-2020; formerly blank; Cause of Death-Line 7- amended on Apr-22-2020; formerly blank; Cause of Death-Line 8- amended on Apr-22-2020; formerly blank; Cause of Death-Line 9- amended on Apr-22-2020; formerly blank; Cause of Death-Line 10- amended on Apr-22-2020; formerly blank; Cause of Death-Line 11- amended on Apr-22-2020; formerly blank; Cause of Death-Line 12- amended on Apr-22-2020; formerly blank; Cause of Death-Line 13- amended on Apr-22-2020; formerly blank; Cause of Death-Line 14- amended on Apr-22-2020; formerly blank; Cause of Death-Line 15- amended on Apr-22-2020; formerly blank; Cause of Death-Line 16- amended on Apr-22-2020; formerly blank; Cause of Death-Line 17- amended on Apr-22-2020; formerly blank; Cause of Death-Line 18- amended on Apr-22-2020; formerly blank; Cause of Death-Line 19- amended on Apr-22-2020; formerly blank; Cause of Death-Line 20- amended on Apr-22-2020; formerly blank; Cause of Death-Line 21- amended on Apr-22-2020; formerly blank; Cause of Death-Line 22- amended on Apr-22-2020; formerly blank; Cause of Death-Line 23- amended on Apr-22-2020; formerly blank; Cause of Death-Line 24- amended on Apr-22-2020; formerly blank; Cause of Death-Line 25- amended on Apr-22-2020; formerly blank; Cause of Death-Line 26- amended on Apr-22-2020; formerly blank; Cause of Death-Line 27- amended on Apr-22-2020; formerly blank; Cause of Death-Line 28- amended on Apr-22-2020; formerly blank; Cause of Death-Line 29- amended on Apr-22-2020; formerly blank; Cause of Death-Line 30- amended on Apr-22-2020; formerly blank; Cause of Death-Line 31- amended on Apr-22-2020; formerly blank; Cause of Death-Line 32- amended on Apr-22-2020; formerly blank; Cause of Death-Line 33- amended on Apr-22-2020; formerly blank; Cause of Death-Line 34- amended on Apr-22-2020; formerly blank; Cause of Death-Line 35- amended on Apr-22-2020; formerly blank; Cause of Death-Line 36- amended on Apr-22-2020; formerly blank; Cause of Death-Line 37- amended on Apr-22-2020; formerly blank; Cause of Death-Line 38- amended on Apr-22-2020; formerly blank; Cause of Death-Line 39- amended on Apr-22-2020; formerly blank; Cause of Death-Line 40- amended on Apr-22-2020; formerly blank; Cause of Death-Line 41- amended on Apr-22-2020; formerly blank; Cause of Death-Line 42- amended on Apr-22-2020; formerly blank; Cause of Death-Line 43- amended on Apr-22-2020; formerly blank; Cause of Death-Line 44- amended on Apr-22-2020; formerly blank; Cause of Death-Line 45- amended on Apr-22-2020; formerly blank; Cause of Death-Line 46- amended on Apr-22-2020; formerly blank; Cause of Death-Line 47- amended on Apr-22-2020; formerly blank; Cause of Death-Line 48- amended on Apr-22-2020; formerly blank; Cause of Death-Line 49- amended on Apr-22-2020; formerly blank; Cause of Death-Line 50- amended on Apr-22-2020; formerly blank; Cause of Death-Line 51- amended on Apr-22-2020; formerly blank; Cause of Death-Line 52- amended on Apr-22-2020; formerly blank; Cause of Death-Line 53- amended on Apr-22-2020; formerly blank; Cause of Death-Line 54- amended on Apr-22-2020; formerly blank; Cause of Death-Line 55- amended on Apr-22-2020; formerly blank; Cause of Death-Line 56- amended on Apr-22-2020; formerly blank; Cause of Death-Line 57- amended on Apr-22-2020; formerly blank; Cause of Death-Line 58- amended on Apr-22-2020; formerly blank; Cause of Death-Line 59- amended on Apr-22-2020; formerly blank; Cause of Death-Line 60- amended on Apr-22-2020; formerly blank; Cause of Death-Line 61- amended on Apr-22-2020; formerly blank; Cause of Death-Line 62- amended on Apr-22-2020; formerly blank; Cause of Death-Line 63- amended on Apr-22-2020; formerly blank; Cause of Death-Line 64- amended on Apr-22-2020; formerly blank; Cause of Death-Line 65- amended on Apr-22-2020; formerly blank; Cause of Death-Line 66- amended on Apr-22-2020; formerly blank; Cause of Death-Line 67- amended on Apr-22-2020; formerly blank; Cause of Death-Line 68- amended on Apr-22-2020; formerly blank; Cause of Death-Line 69- amended on Apr-22-2020; formerly blank; Cause of Death-Line 70- amended on Apr-22-2020; formerly blank; Cause of Death-Line 71- amended on Apr-22-2020; formerly blank; Cause of Death-Line 72- amended on Apr-22-2020; formerly blank; Cause of Death-Line 73- amended on Apr-22-2020; formerly blank; Cause of Death-Line 74- amended on Apr-22-2020; formerly blank; Cause of Death-Line 75- amended on Apr-22-2020; formerly blank; Cause of Death-Line 76- amended on Apr-22-2020; formerly blank; Cause of Death-Line 77- amended on Apr-22-2020; formerly blank; Cause of Death-Line 78- amended on Apr-22-2020; formerly blank; Cause of Death-Line 79- amended on Apr-22-2020; formerly blank; Cause of Death-Line 80- amended on Apr-22-2020; formerly blank; Cause of Death-Line 81- amended on Apr-22-2020; formerly blank; Cause of Death-Line 82- amended on Apr-22-2020; formerly blank; Cause of Death-Line 83- amended on Apr-22-2020; formerly blank; Cause of Death-Line 84- amended on Apr-22-2020; formerly blank; Cause of Death-Line 85- amended on Apr-22-2020; formerly blank; Cause of Death-Line 86- amended on Apr-22-2020; formerly blank; Cause of Death-Line 87- amended on Apr-22-2020; formerly blank; Cause of Death-Line 88- amended on Apr-22-2020; formerly blank; Cause of Death-Line 89- amended on Apr-22-2020; formerly blank; Cause of Death-Line 90- amended on Apr-22-2020; formerly blank; Cause of Death-Line 91- amended on Apr-22-2020; formerly blank; Cause of Death-Line 92- amended on Apr-22-2020; formerly blank; Cause of Death-Line 93- amended on Apr-22-2020; formerly blank; Cause of Death-Line 94- amended on Apr-22-2020; formerly blank; Cause of Death-Line 95- amended on Apr-22-2020; formerly blank; Cause of Death-Line 96- amended on Apr-22-2020; formerly blank; Cause of Death-Line 97- amended on Apr-22-2020; formerly blank; Cause of Death-Line 98- amended on Apr-22-2020; formerly blank; Cause of Death-Line 99- amended on Apr-22-2020; formerly blank; Cause of Death-Line 100- amended on Apr-22-2020; formerly blank; Cause of Death-Line 101- amended on Apr-22-2020; formerly blank; Cause of Death-Line 102- amended on Apr-22-2020; formerly blank; Cause of Death-Line 103- amended on Apr-22-2020; formerly blank; Cause of Death-Line 104- amended on Apr-22-2020; formerly blank; Cause of Death-Line 105- amended on Apr-22-2020; formerly blank; Cause of Death-Line 106- amended on Apr-22-2020; formerly blank; Cause of Death-Line 107- amended on Apr-22-2020; formerly blank; Cause of Death-Line 108- amended on Apr-22-2020; formerly blank; Cause of Death-Line 109- amended on Apr-22-2020; formerly blank; Cause of Death-Line 110- amended on Apr-22-2020; formerly blank; Cause of Death-Line 111- amended on Apr-22-2020; formerly blank; Cause of Death-Line 112- amended on Apr-22-2020; formerly blank; Cause of Death-Line 113- amended on Apr-22-2020; formerly blank; Cause of Death-Line 114- amended on Apr-22-2020; formerly blank; Cause of Death-Line 115- amended on Apr-22-2020; formerly blank; Cause of Death-Line 116- amended on Apr-22-2020; formerly blank; Cause of Death-Line 117- amended on Apr-22-2020; formerly blank; Cause of Death-Line 118- amended on Apr-22-2020; formerly blank; Cause of Death-Line 119- amended on Apr-22-2020; formerly blank; Cause of Death-Line 120- amended on Apr-22-2020; formerly blank; Cause of Death-Line 121- amended on Apr-22-2020; formerly blank; Cause of Death-Line 122- amended on Apr-22-2020; formerly blank; Cause of Death-Line 123- amended on Apr-22-2020; formerly blank; Cause of Death-Line 124- amended on Apr-22-2020; formerly blank; Cause of Death-Line 125- amended on Apr-22-2020; formerly blank; Cause of Death-Line 126- amended on Apr-22-2020; formerly blank; Cause of Death-Line 127- amended on Apr-22-2020; formerly blank; Cause of Death-Line 128- amended on Apr-22-2020; formerly blank; Cause of Death-Line 129- amended on Apr-22-2020; formerly blank; Cause of Death-Line 130- amended on Apr-22-2020; formerly blank; Cause of Death-Line 131- amended on Apr-22-2020; formerly blank; Cause of Death-Line 132- amended on Apr-22-2020; formerly blank; Cause of Death-Line 133- amended on Apr-22-2020; formerly blank; Cause of Death-Line 134- amended on Apr-22-2020; formerly blank; Cause of Death-Line 135- amended on Apr-22-2020; formerly blank; Cause of Death-Line 136- amended on Apr-22-2020; formerly blank; Cause of Death-Line 137- amended on Apr-22-2020; formerly blank; Cause of Death-Line 138- amended on Apr-22-2020; formerly blank; Cause of Death-Line 139- amended on Apr-22-2020; formerly blank; Cause of Death-Line 140- amended on Apr-22-2020; formerly blank; Cause of Death-Line 141- amended on Apr-22-2020; formerly blank; Cause of Death-Line 142- amended on Apr-22-2020; formerly blank; Cause of Death-Line 143- amended on Apr-22-2020; formerly blank; Cause of Death-Line 144- amended on Apr-22-2020; formerly blank; Cause of Death-Line 145- amended on Apr-22-2020; formerly blank; Cause of Death-Line 146- amended on Apr-22-2020; formerly blank; Cause of Death-Line 147- amended on Apr-22-2020; formerly blank; Cause of Death-Line 148- amended on Apr-22-2020; formerly blank; Cause of Death-Line 149- amended on Apr-22-2020; formerly blank; Cause of Death-Line 150- amended on Apr-22-2020; formerly blank; Cause of Death-Line 151- amended on Apr-22-2020; formerly blank; Cause of Death-Line 152- amended on Apr-22-2020; formerly blank; Cause of Death-Line 153- amended on Apr-22-2020; formerly blank; Cause of Death-Line 154- amended on Apr-22-2020; formerly blank; Cause of Death-Line 155- amended on Apr-22-2020; formerly blank; Cause of Death-Line 156- amended on Apr-22-2020; formerly blank; Cause of Death-Line 157- amended on Apr-22-2020; formerly blank; Cause of Death-Line 158- amended on Apr-22-2020; formerly blank; Cause of Death-Line 159- amended on Apr-22-2020; formerly blank; Cause of Death-Line 160- amended on Apr-22-2020; formerly blank; Cause of Death-Line 161- amended on Apr-22-2020; formerly blank; Cause of Death-Line 162- amended on Apr-22-2020; formerly blank; Cause of Death-Line 163- amended on Apr-22-2020; formerly blank; Cause of Death-Line 164- amended on Apr-22-2020; formerly blank; Cause of Death-Line 165- amended on Apr-22-2020; formerly blank; Cause of Death-Line 166- amended on Apr-22-2020; formerly blank; Cause of Death-Line 167- amended on Apr-22-2020; formerly blank; Cause of Death-Line 168- amended on Apr-22-2020; formerly blank; Cause of Death-Line 169- amended on Apr-22-2020; formerly blank; Cause of Death-Line 170- amended on Apr-22-2020; formerly blank; Cause of Death-Line 171- amended on Apr-22-2020; formerly blank; Cause of Death-Line 172- amended on Apr-22-2020; formerly blank; Cause of Death-Line 173- amended on Apr-22-2020; formerly blank; Cause of Death-Line 174- amended on Apr-22-2020; formerly blank; Cause of Death-Line 175- amended on Apr-22-2020; formerly blank; Cause of Death-Line 176- amended on Apr-22-2020; formerly blank; Cause of Death-Line 177- amended on Apr-22-2020; formerly blank; Cause of Death-Line 178- amended on Apr-22-2020; formerly blank; Cause of Death-Line 179- amended on Apr-22-2020; formerly blank; Cause of Death-Line 180- amended on Apr-22-2020; formerly blank; Cause of Death-Line 181- amended on Apr-22-2020; formerly blank; Cause of Death-Line 182- amended on Apr-22-2020; 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EXHIBIT B

2

Date of Death: 3-20-20

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT - PROBATE DIVISION

Case No. 2020-P-4823 Calendar 08Estate of DANIEL PRUDE
Deceased**ORDER APPOINTING REPRESENTATIVE OF DECEDENT'S ESTATE - INTESTATE**On the PETITION of Nathaniel McFarland
[printed name of the Petitioner]

for issuance of Letters of Administration, the Court having been advised that the proposed representative is qualified to act as administrator under §9-1 of the Probate Act of 1975 [755 ILCS 5/9-1];

IT IS ORDERED THAT:A. Letters of Administration issue to NATHANIEL McFARLAND as
[printed name of the proposed representative]

- | | | | |
|--|------|---|------|
| <input checked="" type="checkbox"/> Supervised Administrator | 4232 | <input type="checkbox"/> Independent Administrator | 4230 |
| <input type="checkbox"/> Supervised Administrator to Collect | 4249 | <input type="checkbox"/> Independent Administrator to Collect | 4248 |
| <input type="checkbox"/> Supervised Administrator de bonis non | 4237 | <input type="checkbox"/> Independent Administrator de bonis non | 4236 |
| <input type="checkbox"/> Supervised Co-Administrators | 4227 | <input type="checkbox"/> Independent Co-Administrators | 4231 |

B. The representative present to the Court:

- ☒ 1. an **INVENTORY** as required by §14-1 of the Probate Act of 1975 [755 ILCS 5/14-1] by, or shall appear before the Court on, 6-12-21, at 10A M.; ☐ 4192
[not more than 60 days after the date of this Order]
- ☒ 2. an **ACCOUNT** as required by §24-1 of the Probate Act of 1975 [755 ILCS 5/24-1] by, or shall appear before the Court on, 01/12/2022, at 10:00 A. M.; ☐ 4297
[not more than 14 months after the date of this Order]
- ☐ 3. a **FINAL REPORT** as required by §28-11 of the Probate Act of 1975 [755 ILCS 5/28-11] by, or shall appear before the Court to present a written status report on, _____ at _____ M. ☐ 4297
[not more than 14 months after the date of this Order]

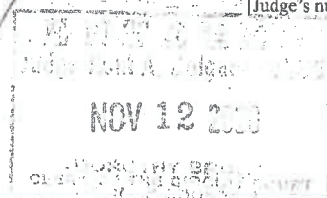
C. If the representative is a nonresident, no assets shall leave the State of Illinois without court order, and the representative's attorney shall act as the representative's resident agent and accept service of process, notice or demand required or permitted by law. ☐ 4262

D. Letters of Office as Administrator to Collect shall be Terminated after Letters of Supervised Administration are Issued.

Attorney Number 56304
 Name James G. Riley
 Firm Name FMS Law Group LLC
 Attorneys for Nathaniel McFarland
 Address 200 W. Monroe St., Ste. 750
 City/State/Zip Chicago, Illinois 60606
 Telephone (312) 332-6381
 Email Jamesriley@fmslawgroup.com

ENTERED:

[Signature], 20
 [Judge] [Judge's number]

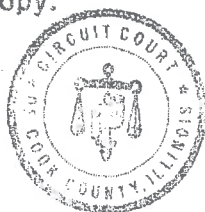


I hereby certify that the document to which this
certification is affixed is a true copy.

Date

NOV 12 2020

Dorothy Brown
Clerk of the Circuit Court
of Cook County, IL



LETTERS OF OFFICE-DECEDENT'S ESTATE

(Rev. 12/23/03) CCP 0415

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, PROBATE DIVISION

Estate of
DANIEL PRUDE

Deceased

}

No. 2020 P 004823

Docket

Page

LETTERS OF OFFICE - DECEDENT'S ESTATE

NATHANIEL McFARLAND

has been appointed

Supervised

Administrator

of the estate of

DANIEL PRUDE

, deceased,

who died Friday, March 20, 2020

, and is authorized to take possession of and collect the

estate of the decedent and to do all acts required by law.

LS

WITNESS, November 12, 2020

Dorothy Brown

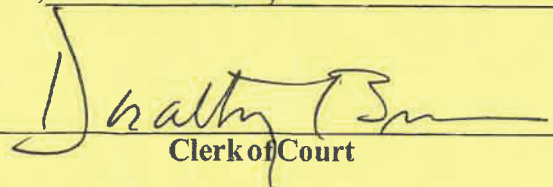
Clerk of the Circuit Court

CERTIFICATE

I certify that this is a copy of the letters of office now in force in this estate.

TG

WITNESS, November 12, 2020


Clerk of Court

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

EXHIBIT C

At a Surrogate's Court of the State of
New York held in and for the County
of Monroe, at Rochester, New York

Present: Hon. John M. Owens, Surrogate

-----X
Ancillary Administration Proceeding,
Estate of

DANIEL PRUDE,

A domiciliary of the State of Illinois,

Deceased.

**ORDER REVOKING LETTERS OF
ADMINISTRATION AND
GRANTING ANCILLARY LETTERS
OF ADMINISTRATION WITH
LIMITATIONS**

File No. 2020-1616
-----X

A verified Petition having been filed by Nathaniel McFarland praying that Tameshay Prude be removed as Administrator pursuant to SCPA §711, and for Ancillary Letters of Administration of the Estate of Daniel Prude, deceased, for which Letters of Administration have been issued by the State of Illinois, said state being the domicile of decedent at his date of death and said Petition having set forth facts upon which the jurisdiction has been obtained over all persons entitled to process in this proceeding, and that said decedent at death was possessed of property in this state; now it is

ORDERED AND DECREED that the Letters of Administration with Limitations previously issued to Tameshay Prude by this Court on August 24, 2020 be revoked; and it is further

ORDERED AND DECREED that Ancillary Letters of Administration issue to Nathaniel McFarland upon proper qualification and the filing of a bond be and hereby is dispensed with; and it is further

ORDERED AND DECREED that the authority of such administrator be restricted in accordance with, and that the letters herein issued contain, the limitation as follows:

Limitations/Restrictions: Pursuant to EPTL 5-4.6, the personal representative of the estate shall petition the Surrogate's Court for allocation and distribution of any recovery in wrongful death. The attorney of record and the personal representative for the estate shall finally settle the estate within 60 days of the date of the Surrogate's decree compromising the wrongful death action; and it is further

ORDERED AND DECREED that the Temporary Ancillary Letters of Administration previously issued to Nathaniel McFarland be revoked.

Dated: December 15, 2020


John M. Owens
Surrogate

SURROGATE'S COURT
MONROE COUNTY

DEC 15

FILED

EXHIBIT D

IN THE CIRCUIT COURT OF COOK COUNTY,
ILLINOIS COUNTY DEPARTMENT – PROBATE DIVISION

Estate of

DANIEL PRUDE,

Deceased.

)
)
) No. 2020 P 4823
)
) Hon. ~~Robert~~ A. Delgado
)
)
)

AGREED ORDER GRANTING SETTLEMENT AUTHORITY


This matter coming before the Court by agreement of the Administrator and all heirs,
with the Court being informed as follows:

1. Decedent Daniel Prude lost consciousness while in the custody of City of Rochester police officers on March 23, 2022, never regained consciousness, and died in New York on March 30, 2020.
2. Decedent died intestate and domiciled in Cook County, Illinois.
3. On November 12, 2020, this Court appointed Nathaniel McFarland Supervised Administrator of Daniel Prude's Estate.
4. On December 3, 2022, the Monroe County Surrogate's Court in New York appointed Mr. McFarland Ancillary Administrator of the Estate of Daniel Prude and revoked the letters of appointment previously issued to Tameshay Prude, the decedent's sister.
5. On January 5, 2021, the U.S. District Court for the Western District of New York substituted Mr. McFarland for Tameshay Prude as Plaintiff in *Prude v. City of Rochester et al.*, 6:20-cv-006675-FPG (the "Wrongful Death Action"). The claims raised in the Wrongful Death Action are the only asset in the Estate of Daniel Prude.
6. Thereafter and in order to facilitate settlement, the judge overseeing the Wrongful Death Action in the U.S. District Court for the Western District of New York, the Hon. Frank Geraci, arranged for two other federal judges to serve as mediators to facilitate settlement negotiations. Over the past several months, the parties to the Wrongful Death Action have engaged in substantial arm's length, mediated negotiations.
7. Pursuant to Local Rule 41 of the United States District Court for the Western District of New York, any settlement of a claim by a decedent's estate requires court approval, including approval of attorneys' fees and costs.

8. The Administrator, with consent of all heirs, seeks authorization from this Court to enter into a settlement of the Wrongful Death Action subject to the approval of said settlement by the United States District Court for the Western District of New York, including as to attorneys' fees and costs, and with the net proceeds to be distributed pursuant to order of this Probate Court of the Circuit Court of Cook County, Illinois

IT IS HEREBY ORDERED AS FOLLOWS:

1. Supervised Administrator Nathaniel McFarland is authorized to settle the Wrongful Death Action (with such settlement including *inter alia* attorneys' fees and disbursements) without further approval of this Court, subject to obtaining approval of the settlement by the U.S. District Court for the Western District of New York.
2. In the event that the U.S. District Court for the Western District of New York approves a settlement of the Wrongful Death Action, Supervised Administrator Nathaniel McFarland is directed to apply to this Court for an order of distribution of the net proceeds of any such settlement.



Hon. Kent A. Delgado

Firm ID: 56304
James G. Riley
FMS Law Group LLC
200 West Monroe St., Ste. 750
Chicago, Illinois 60606
(312) 332-6381
james.riley@fmslawgroup.com
One of the Attorneys for Nathaniel McFarland



EXHIBIT E

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

NATHANIEL MCFARLAND, in his capacity as
supervised and ancillary administrator of the ESTATE
OF DANIEL PRUDE,

Plaintiff,

No. 6:20-cv-006675-FPG

v.

THE CITY OF ROCHESTER, MARK VAUGHN,
TROY TALADAY, FRANCISCO SANTIAGO,
MICHAEL MAGRI, ANDREW SPECKSGOOR,
JOSIAH HARRIS, and other as-yet-unidentified
Rochester police officers,

Defendants.

[PROPOSED] ORDER APPROVING SETTLEMENT

Upon the Plaintiff's application for settlement approval pursuant to Local Rule 41 and submission of affidavits in support thereof, the Court states as follows:

1. In light of the complexity of this matter and its significance to the community, and with agreement of the parties, in early 2022, this Court appointed two federal judges to serve as mediators in this action, Hon. LaShann DeArcy Hall of the United States District Court for the Eastern District of New York, and Hon. Magistrate Judge Jonathan Feldman of the United States District Court for the Western District of New York.

2. After extensive arm's length, mediated negotiations, lasting over several months, the parties report that they have reached a settlement in principle.

All parties appearing before the Court, and the Court finding, and the parties agreeing, that a hearing is not necessary, IT IS HEREBY ORDERED:

1. The Court hereby approves, pursuant to Local Rule 41, the terms of the proposed settlement of the above-referenced action involving claims by the Estate of decedent Daniel Prude, including the attorneys' fees and disbursements to be paid out of the settlement, finding the terms thereof to be fair and reasonable and in the best interest of the Estate and distributees.

These terms include the following:

- a. The above-referenced action (the "Lawsuit") is settled for a payment by Defendant City of Rochester to the Plaintiff in the total amount of twelve million dollars (\$12,000,000) (the "Settlement Amount").
- b. The Lawsuit will be dismissed with prejudice, waiver of any right to appeal, and a general release of the Defendants (and their agents, successors and employees) by the Plaintiff Administrator.
- c. There will be no admission of liability.
- d. Fifty percent (50%) of the Settlement Amount (six million dollars (\$6,000,000)) is to be paid as compensation for damages for conscious pain and suffering ("Survival Claims"), and the remaining fifty percent (50%) of the Settlement Amount (six million dollars (\$6,000,000)) is to be paid as compensation for damages for pecuniary injuries to five children, the heirs, resulting from the decedent's death ("Wrongful Death Claims"). No portion of the Settlement Amount is to be paid for punitive damages.
- e. Thirty-three percent of the total Settlement Amount (33 percent of the Survival Claims damages (\$1,980,000) and 33 percent of the Wrongful Death Claims damages (\$1,980,000)) will be paid as attorneys' fees to Plaintiff's Counsel, for a total of three million nine-hundred and sixty thousand dollars (\$3,960,000) in attorneys' fees.
- f. One-hundred and sixteen thousand eight-hundred and eight dollars and 92 cents ((\$116,808.92) of the Settlement Amount (\$58,404.46 of the Survival Claims damages and \$58,404.46 of the Wrongful Death Claims damages) are to be paid to Plaintiff's Counsel for disbursements, to reimburse Plaintiff's Counsel for costs incurred in advancing the claims in the above-referenced action.
- g. The Settlement Amount net of attorneys' fees and disbursements shall be paid into two separate "Qualified Settlement Funds" ("QFS")—one for the Survival Claims damages net of fees and disbursements and one for the Wrongful Death Claims damages net of fees and disbursements—within the meaning of United States Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 that shall be established pursuant this Order and will be subject to the continuing jurisdiction of this Court until payments are directed from these two funds by the Cook County Probate Court. Defendant is a "transferor" within the meaning of United States Treasury Regulation § 1.468B-1(d)(1) to the Settlement

Funds. Eastern Point Trust Company, shall be the “administrator” of the Settlement Funds within the meaning of United States Treasury Regulation § 1.468B-2(k)(3) and, as the administrator, shall: (a) timely make or join in any and all filings or elections necessary to make the Settlement Funds qualified settlement funds at the earliest possible date (including, if requested by Defendant, a relation-back election within the meaning of United States Treasury Regulation § 1.468B-1(j)); (b) timely file all necessary or advisable tax returns, reports, or other documentation required to be filed by or with respect to the Settlement Funds; (c) timely pay any taxes (including any estimated taxes, and any interest or penalties) required to be paid by or with respect to the Settlement Funds; and (d) comply with any applicable information reporting or tax withholding requirements imposed by applicable law, in accordance with United States Treasury Regulation § 1.468B-2(l). Any such taxes, as well as all other costs incurred by the administrator in performing the obligations created by this subsection, shall be paid out of the Qualified Settlement Funds. Defendant shall have no responsibility or liability for paying such taxes and no responsibility to file tax returns with respect to the Qualified Settlement Funds or to comply with information-reporting or tax-withholding requirements with respect thereto. Defendant shall provide the administrator with the combined statement described in United States Treasury Regulation § 1.468B-3(e)(2)(ii).

h. Following payment in full of the Settlement Amount, Plaintiff Administrator agrees to hold harmless and indemnify Defendants against any claims for attorneys’ fees related to the above-referenced action.

i. The parties shall seek to facilitate the prompt transfer of funds by wire transfer.

2. The Plaintiff is directed to apply to the Circuit Court of Cook County, Illinois County Department, Probate Division for an order of distribution of the net proceeds of the settlement, pursuant to 755 ILCS 5/2-1.

3. This action is hereby dismissed with prejudice and without costs, including all claims brought and that could have been brought. The Court will retain jurisdiction, but the above-referenced action no longer remains pending.

SO ORDERED this _____ day of October, 2022

Hon. Frank P. Geraci